

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for
MONTGOMERY COUNTY
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CASE NO. CU 20-05

HSB POTOMAC, LLC and ISF POTOMAC SENIOR LIVING, LLC

**ORDER GRANTING FIFTH EXTENSION
OF VALIDITY PERIOD FOR CONDITIONAL USE**

I. Background

On December 21, 2020, the Hearing Examiner approved the above conditional use application filed by Spectrum Retirement Communities LLC (hereinafter referred to as HSB or the Applicant) to operate a residential care facility for more than 16 persons on property located at 9545 River Road, Potomac, Maryland 20854 (Property). The Hearing Examiner issued an Errata making technical changes to her decision on March 9, 2021. Spectrum transferred the conditional use to HSB Potomac, LLC on August 23, 2023. On March 7, 2023, the Hearing Examiner approved minor amendments to the conditional use plan and extended its validity period to March 9, 2024. The Hearing Examiner approved additional minor amendments on January 24, 2024. On February 27, 2024, the Hearing Examiner granted a second request to extend the validity period of the conditional use by 12 months to March 9, 2025, due to unexpected changes in the permitting process causing approval delays from various government agencies. On March 6, 2025, the Hearing Examiner granted a third request to extend the validity permit of the conditional use for a period of 6 months to seek bond financing and added ISF Potomac Senior Living, LLC (hereinafter referred to as “ISF”) as a co-holder of the conditional use.

On July 31, 2025, HSB submitted a fourth request to extend the time within which it must implement the conditional use. HSB affirmed the project is “building-permit ready, pending construction financing.” Working with Montgomery County to bring the bond financing to market, “Montgomery County approved up to 160 million of bonds to finance this project on March 24, 2025, and the Preliminary Offering Statement was issued on May 12, 2025.” Due to the volatility of the bond markets, HSB stated this financing effort had experienced a delay in bond issuance requiring the need for additional time to either finalize the bond financing or pursue conventional financing if the bond markets do not stabilize. HSB believed at the time that six months was needed to secure the necessary financing. On August 1, 2025, the Hearing Examiner granted an Order further extending the validity period of the Conditional Use from September 9,

2025 to March 8, 2026.

On February 4, 2026, Applicant's Attorneys submitted a request for a further extension of the Conditional Use citing among other grounds the fact that the bond financing outlined above fell through. The bonds issued on May 12, 2025, and November 11, 2025 were undersubscribed. The Applicant has demonstrated an unquestionable desire to proceed with the project either with successful bond financing or alternative financing it has concurrently been pursuing. Applicant's Counsel supplemented the February 4, 2026 letter of request with an Affidavit of Joseph P. McGonigle, Chief Executive Officer sworn on February 20, 2026, with five accompanying exhibits outlining the financing pursuits of the Applicant and the status of the demolition and building permit reviews by the Department of Permitting Services.

II. Opinion

Under Section 59.7.3.1.I.1 of the Montgomery County Zoning Ordinance (2014), conditional use approvals are valid for two years after the date of issuance. That same section permits the Hearing Examiner to "extend the time limit for a conditional use to be established or obtain a building permit if the evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the period of validity." *Zoning Ordinance*, Section 59.7.3.1.I.2. Extensions are limited to a term of 12 months. *Id.*

The validity period of the current conditional use approval extends to March 8, 2026. Despite the length of time since the initial approval, the record here establishes that the Applicant has actively pursued and finalized its approvals with demolition and building permit ready to issue upon payment of building permit fees after approval of financing. The record shows that Applicant actively sought bond financing working closely with Montgomery County which bonds were issued as recently as May 12, 2025 and November 11, 2025, but because the bonds were undersubscribed this bond financing fell through. As a result, the Applicant needs additional time to pursue bond financing or pivot to a method of conventional debt/equity financing which it has been actively pursuing concurrently. Clearly out of no fault its own, Applicant has diligently tried to get this project off the ground and will be unable to start work before the current validity period expires, believing an additional nine months is needed to secure the necessary financing.

As HSB has demonstrated significant progress toward implementing the conditional use, and that Applicant unquestionably wants to move forward with this project and has been diligently pursuing all avenues to reduce any delay, given the substantial investment the Applicant has made in this project to date, not only on the Conditional Use (and subsequent Preliminary Plan) approval but also the progress in recording the Plat and obtaining approvals of building and demolition permits (with issuance pending approval of financing, the Hearing Examiner grants HSB and ISF an additional nine month extension on the validity of this Conditional Use.

III. Order

The Hearing Examiner finds that the request to extend the validity period of the conditional use meets the requirements of the Zoning Ordinance and hereby extends the validity period of the conditional use by nine months, from **March 8, 2026 to December 8, 2026**. All conditions of approval of the original conditional use, as modified in the Orders dated March 7, 2023, and January 24, 2024, remain in full force and effect, and further that

So ORDERED this 2nd day of March, 2026.



Khandikile Mvunga Sokoni
Hearing Examiner

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